

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

ERIKA JOHNSON,

Defendant.

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Case No. 04-80849

ARTHUR J. TARNOW  
UNITED STATES DISTRICT JUDGE

STEVEN D. PEPE  
MAGISTRATE JUDGE

**ORDER DENYING DEFENDANT'S  
MOTION TO SET ASIDE JUDGMENT [62]**

Before the Court is Defendant's Motion [62] to set aside the judgment in her case.

On October 15, 2004, Defendant was indicted [1] on one count of conspiracy to commit false impersonation and wire fraud. Defendant entered into a Rule 11 Plea Agreement [37], under which Defendant pled guilty to Count One of the indictment. In its final Judgment [43], the Court sentenced Defendant to terms that included 24 months of probation and payment towards a restitution sum of \$8425.08.

The resolution of Defendant's current motion is governed by Rule 11 of the Federal Rules of Criminal Procedure. Rule 11 provides that "[a]fter the court imposes sentence, the defendant may not withdraw a plea of guilty . . . and the plea may be set aside only on direct appeal or collateral attack." Fed. R. Crim. P. 11(e) (emphasis added).

Here, Defendant has not appealed the disposition of her case, and indeed, under the terms of her Plea Agreement, Defendant agreed to waive her right to appeal. Defendant has also not filed a collateral attack on the judgment in her case.

To ensure that judgments remain final, the Federal Rules of Criminal Procedure make it possible for the Court to set aside a criminal judgment only in very narrow circumstances. Defendant's case does not meet the narrow requirements of Rule 11, and thus the Court does not have the power to set aside the judgment in her case.

For the reasons stated above, Defendant's Motion to set aside her judgment must be **DENIED.**

**SO ORDERED.**

S/ARTHUR J. TARNOW  
Arthur J. Tarnow  
United States District Judge

Dated: March 5, 2009

I hereby certify that a copy of the foregoing document was served upon counsel of record on March 5, 2009, by electronic and/or ordinary mail.

S/THERESA E. TAYLOR  
Case Manager